

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

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Gerald Lee Whitner, #278224, ) C.A. #4:08-2279-PMD  
                                  )  
Petitioner,                  )  
                                  )  
vs.                            )         **ORDER**  
                                  )  
Warden, Lee Correctional Institution,            )  
                                  )  
Respondent.                  )  
                                  )  
\_\_\_\_\_)

This matter is before the court upon the magistrate judge's recommendation that respondent's motion for summary judgment be granted. The record includes the report and recommendation of the United States Magistrate Judge made in accordance with this Court's Order of Reference and 28 U.S.C. § 636(b)(1)(B). Because petitioner is pro se, this matter was referred to the magistrate judge.<sup>1</sup>

This Court is charged with conducting a de novo review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). No objections have been filed to the magistrate judge's report.

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. For the reasons articulated by the magistrate judge, it is **ordered** that respondent's motion for summary judgment is **GRANTED**, and the petition is dismissed.

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<sup>1</sup>Pursuant to the provisions of Title 28 United States Code, § 636(b)(1)(B), and Local Rule 73.02(B)(2)(c), D.S.C., the magistrate judge is authorized to review all pretrial matters and submit findings and recommendations to this Court.

**FURTHER ORDERED**, that the magistrate judge's report and recommendation is adopted as the order of this Court.

**AND IT IS SO ORDERED.**

  
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PATRICK MICHAEL DUFFY  
United States District Judge

August 28, 2009  
Charleston, South Carolina

NOTICE OF APPEAL

Petitioner is hereby notified that he has the right to appeal this Order within thirty (30) days from the date hereof pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.